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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/586,723 | 06/05/2000 | Matthew P. Vincent | EMC-01 (22718) | 7896 |
| 25181 | 7590 | 10/09/2003 | EXAMINER | |
| FOLEY HOAG, LLP PATENT GROUP, WORLD TRADE CENTER WEST 155 SEAPORT BLVD BOSTON, MA 02110 | | | KAZIMI, HANI M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3624 | |

DATE MAILED: 10/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/586,723

Applicant(s)

VINCENT ET AL.

Examiner

Hani Kazimi

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-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5, 7. 6) ☐ Other: _____

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DETAILED ACTION

1. This application has been reviewed. Original claims 1-13 are pending. The rejections cited are as stated below:

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular, claim 1, the phrase "and/or" renders the claims indefinite because, it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 1, recites the limitation "-- the occurrence --". There is insufficient antecedent basis for this limitation in the claim. For examination purposes, examiner interprets the claim limitation in light of the 112 2nd rejection. Appropriate correction is required.

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Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-3, 6, 10, and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker et al. US Patent No. 5,797,127 (hereinafter "Walker").

Claims 1-3, 6, 10, and 13, Walker teaches a method and a corresponding system for allowing a remote user to purchase, over a distributed computer network, an option or futures contract for a ticket to a contingent event, which system comprises a host server operative with a program including, an event database connected in communication with said host server, said

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database including ticket identifiers each representative of a ticket for a contingent participant-event (column 3, line 1 thru column 8, line 53), an option or futures bid database in communication with said host server, said option or futures bid database including allocation fields representative of an option or futures bid for each of said tickets (column 3, line 1 thru column 8, line 53), an interface manager implemented on said server and in communication with said databases, wherein said interface manager processes option or futures bids from remote users to determine whether to accept the option or futures bid and to update the allocation field (column 3, line 1 thru column 8, line 53), and wherein the services are at least one of a sporting event ticket, an airline ticket, a charter airline reservation, a hotel reservation, a rental car reservation, a restaurant reservation, a bus ticket, a train ticket, and a ticket or reservation to an attraction in the locale of the contingent ticketed event (column 3, line 1 thru column 8, line 53).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 148 USPQ 459, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are

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summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or unobviousness.

8. Claims 4, 5, 7-9, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. US Patent No. 5,797,127 (hereinafter "Walker").

Claims 4, 5, 7-9, 11, and 12, Walker fails to teach that the ticket is for a sporting event or the presence of a team in a sports event or the presence of an athlete in a sporting event.

Official Notice is taken that purchasing tickets for a sporting event is old and well known in the art.

It would have been obvious to one of ordinary skilled in the art at the time the Applicant's invention was made to modify the teachings of Walker to include that the ticket is for a sporting event or the presence of a team in a sports event or the presence of an athlete in a sporting event because, walker uses the 'airline' tickets as way of an example, Walker states that the system can be used for purchasing other types of tickets.

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Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hani Kazimi whose telephone number is (703) 305-1061. The examiner can normally be reached Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached at (703) 308-1065.

The fax number for Formal or Official faxes and Draft or Informal faxes to Technology Center 3600 or this Art Unit is (703) 305-7687 or 7658.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113 or 1114.



**HANI M. KAZIMI
PRIMARY EXAMINER**

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September 26, 2003